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JAMES N. HATTEN, Clerk

By: *J. White* Deputy Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

DELTA AIR LINES,

Plaintiffs,

v.

MESA AIR GROUP, INC. and
FREEDOM AIRLINES, INC.,

Defendants.

CIVIL ACTION NO.
1:09-CV-2267

**DEFENDANTS' MOTION TO FILE UNDER SEAL
THEIR MEMORANDUM IN SUPPORT OF DEFENDANTS'
PARTIAL MOTION TO DISMISS AND EXHIBITS THERETO**

Defendants Mesa Air Group, Inc. ("Mesa Air") and Freedom Airlines, Inc. ("Freedom") (collectively, "Mesa") submit this motion and request that the enclosed Partial Motion to Dismiss, Memorandum in Support and exhibits thereto be filed under seal. Like the Complaint in this matter, which Delta sought on August 19, 2009 to be filed under seal, Defendants' Memorandum in Support of their Partial Motion to Dismiss and exhibits thereto refer to certain sections and provisions of an Agreement between the parties that contains a confidentiality provision, prohibiting disclosure of the terms and conditions of the Agreement.

The contract at issue provides:

Article 27. Confidentiality.

Except as otherwise provided below, each party shall, and shall ensure that its directors, officers, employees, affiliates and professional advisors (collectively, the “Representatives”), at all times, maintain strict confidence and secrecy in respect of all Confidential Information (as defined below) of the other party (including its affiliates) received directly or indirectly as in result of this Agreement. . . .

For purposes of this Agreement, “Confidential Information” shall mean . . . (b) **the terms and conditions of this Agreement** and any reports, invoices or other communications between the parties given in connection with the negotiation or performance of this Agreement

Each party acknowledges and agrees that in the event of any breach of this Article 27, the Affected Party shall be irreparably and immediately harmed and could not be made whole by monetary damages. Accordingly, it is agreed that, in addition to any other remedy at law or in equity, the Affected Party shall be entitled to an injunction or injunctions (without the posting of any bond and without proof of actual damages) to prevent breaches or threatened breaches of this Article 27 and/or to compel specific performance of this Article 27.

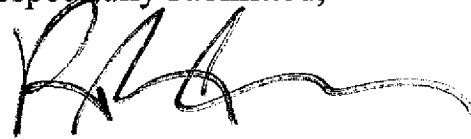
The confidential obligations of the parties under this Article 27 shall survive the termination or expiration of this Agreement. (emphasis added).

The Court and the parties should have an opportunity to address this provision to determine whether the contract, any portion thereof, or any documents disclosing terms and conditions of the agreement should be sealed or publicly filed.

WHEREFORE, Defendants respectfully request that the Court grant this motion and enter the attached Proposed Order.

Dated: September 25, 2009

Respectfully submitted,



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Attorneys for Defendants

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CERTIFICATE OF SERVICE

I hereby certify that I have this manually filed a true and correct copy of the foregoing DEFENDANTS' MOTION TO FILE UNDER SEAL THEIR MEMORANDUM IN SUPPORT OF DEFENDANTS' PARTIAL MOTION TO DISMISS AND EXHIBITS THERETO, and have caused same to be served upon the following counsel of record by first-class mail:

Catherine M. O'Neil
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Dated: September 25, 2009.

A handwritten signature in black ink, appearing to read 'Robert A. Schmoll', written over a horizontal line.

Robert A. Schmoll
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**[PROPOSED] ORDER GRANTING DEFENDANTS' MOTION
TO FILE UNDER SEAL**

Having reviewed Defendants' Motion to File Under Seal their Memorandum in Support of their Partial Motion to Dismiss and Exhibits Thereto, and finding that good cause exists to file these documents under seal, it is hereby ORDERED that Defendants' Motion is GRANTED and Defendants' Memorandum in Support of their motion and the exhibits thereto shall be filed under seal.

SO ORDERED, this day of September, 2009

Timothy C. Batten, Sr.
United States District Judge